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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-126

13 **SANDRA GAIL CURRY**
14 **AKA SANDRA GAIL CURRY-WINTER**
15 **AKA SANDRA GAIL SAXON**
16 **P. O. Box 1285**
17 **Palm Springs, CA 92263**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

18 **Registered Nurse License No. 220444**

19
20 **Respondent.**

21 **FINDINGS OF FACT**

22 1. On or about August 14, 2012, Complainant Louise R. Bailey, M.Ed., R.N., in her
23 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
24 Consumer Affairs, filed Accusation No. 2013-126 against Sandra Gail Curry, aka Sandra Gail
25 Curry-Winter, aka Sandra Gail Saxon (Respondent) before the Board of Registered Nursing.
(Accusation attached as Exhibit A.)

26 2. On or about January 31, 1972, the Board of Registered Nursing (Board) issued
27 Registered Nurse License No. 220444 to Respondent. The Registered Nurse License was in full
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1 force and effect at all times relevant to the charges brought in Accusation No. 2013-126 and will
2 expire on May 31, 2013, unless renewed.

3 3. On or about August 14, 2012, Respondent was served by Certified Mail copies of the
4 Accusation No. 2013-126, Statement to Respondent, Notice of Defense, Request for Discovery,
5 and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
6 Respondent's address of record which, pursuant to Business and Professions Code section 136
7 and California Code of Regulations, title 16, section 1409.1, is required to be reported and
8 maintained with the Board. Respondent's address of record was and is: P. O. Box 1285, Palm
9 Springs, CA 92263.

10 4. The certified mail return receipt card was signed and returned, showing the
11 Accusation and documents were received. Service of the Accusation was effective as a matter of
12 law under the provisions of Government Code section 11505, subdivision (c) and/or Business &
13 Professions Code section 124.

14 5. Government Code section 11506 states, in pertinent part:

15 (c) The respondent shall be entitled to a hearing on the merits if the respondent
16 files a notice of defense, and the notice shall be deemed a specific denial of all parts
17 of the accusation not expressly admitted. Failure to file a notice of defense shall
18 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
19 may nevertheless grant a hearing.

20 6. Respondent failed to file a Notice of Defense within 15 days after service upon her
21 of the Accusation, and therefore waived her right to a hearing on the merits of Accusation
22 No. 2013-126.

23 7. California Government Code section 11520 states, in pertinent part:

24 (a) If the respondent either fails to file a notice of defense or to appear at the
25 hearing, the agency may take action based upon the respondent's express admissions
26 or upon other evidence and affidavits may be used as evidence without any notice to
27 respondent.

28 8. Pursuant to its authority under Government Code section 11520, the Board finds
Respondent is in default. The Board will take action without further hearing and, based on the
relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
taking official notice of all the investigatory reports, exhibits and statements contained therein on

1 file at the Board's offices regarding the allegations contained in Accusation No. 2013-126, finds
2 that the charges and allegations in Accusation No. 2013-126, are separately and severally, found
3 to be true and correct by clear and convincing evidence.

4 9. Taking official notice of its own internal records, pursuant to Business and
5 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
6 and Enforcement is \$1,537.50 as of September 12, 2012.

7 DETERMINATION OF ISSUES

8 1. Based on the foregoing findings of fact, Respondent Sandra Gail Curry,
9 aka Sandra Gail Curry-Winter, aka Sandra Gail Saxon, has subjected her Registered Nurse
10 License No. 220444 to discipline.

11 2. The agency has jurisdiction to adjudicate this case by default.

12 3. The Board of Registered Nursing is authorized to revoke Respondent's Registered
13 Nurse License based upon the following violations alleged in the Accusation which are supported
14 by the evidence contained in the Default Decision Evidence Packet in this case:

15 a. Violation of Business and Professions Code sections 490 and 2761, subdivision (f), in
16 that on or about September 26, 2011, Respondent was convicted on her plea of guilty of violating
17 Vehicle Code section 23103(a) (alcohol and/or drug related reckless driving), a crime that is
18 substantially related to the qualifications, functions and duties of a registered nurse.

19 b. Violation of Business and Professions Code section 2761, subdivision (a) on the
20 grounds of unprofessional conduct as defined by Code section 2762, subdivision (a), in that on or
21 about December 3, 2010, Respondent possessed controlled substances not prescribed to her.

22 c. Violation of Business and Professions Code section 2761, subdivision (a), on the
23 grounds of unprofessional conduct as defined by Code section 2762(b), in that on or about
24 December 3, 2010, Respondent used controlled substances to an extent or in a manner that was
25 dangerous to herself and the public.

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1 ORDER

2 IT IS SO ORDERED that Registered Nurse License No. 220444, heretofore issued to
3 Respondent Sandra Gail Curry, aka Sandra Gail Curry-Winter, aka Sandra Gail Saxon, is
4 revoked.

5 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
6 written motion requesting that the Decision be vacated and stating the grounds relied on within
7 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
8 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

9 This Decision shall become effective on January 14, 2013

10 It is so ORDERED December 14, 2012

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12 FOR THE BOARD OF REGISTERED NURSING
13 DEPARTMENT OF CONSUMER AFFAIRS

14
15 70620382.DOCX
16 DOJ Matter ID:SD2012703063

17 Attachment:
18 Exhibit A: Accusation
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Exhibit A

Accusation

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2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 LINDA K. SCHNEIDER, State Bar No. 101336
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5 P.O. Box 85266
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7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No.

2013-126

13 SANDRA GAIL CURRY
14 AKA SANDRA GAIL CURRY-WINTER
AKA SANDRA GAIL SAXON
P. O. Box 1285
Palm Springs, CA 92263

ACCUSATION

15 Registered Nurse License No. 220444

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about January 31, 1972, the Board of Registered Nursing issued Registered
24 Nurse License Number 220444 to Sandra Gail Curry, aka Sandra Gail Curry-Winter, aka Sandra
25 Gail Saxon (Respondent). The Registered Nurse License was in full force and effect at all times
26 relevant to the charges brought herein and will expire on May 31, 2013, unless renewed.

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Accusation

JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

6. Section 2811(b) states:

Each such license not renewed in accordance with this section shall expire but may within a period of eight years thereafter be reinstated upon payment of the biennial renewal fee and penalty fee required by this chapter and upon submission of such proof of the applicant's qualifications as may be required by the board, except that during such eight-year period no examination shall be required as a condition for the reinstatement of any such expired license which has lapsed solely by reason of non-payment of the renewal fee. After the expiration of such eight-year period the board may require as a condition of reinstatement that the applicant pass such examination as it deems necessary to determine his present fitness to resume the practice of professional nursing.

STATUTORY PROVISIONS

7. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee."

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1 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or
2 revoke a license on the ground that the licensee has been convicted of a crime substantially
3 related to the qualifications, functions, or duties of the business or profession for which the
4 license was issued.

5 9. Section 493 of the Code states:

6 Notwithstanding any other provision of law, in a proceeding conducted by a
7 board within the department pursuant to law to deny an application for a license or
8 to suspend or revoke a license or otherwise take disciplinary action against a person
9 who holds a license, upon the ground that the applicant or the licensee has been
10 convicted of a crime substantially related to the qualifications, functions, and duties
11 of the licensee in question, the record of conviction of the crime shall be conclusive
12 evidence of the fact that the conviction occurred, but only of that fact, and the board
13 may inquire into the circumstances surrounding the commission of the crime in
14 order to fix the degree of discipline or to determine if the conviction is substantially
15 related to the qualifications, functions, and duties of the licensee in question.

16 As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
17 'registration.'

18 10. Section 2761 of the Code states:

19 The board may take disciplinary action against a certified or licensed nurse
20 or deny an application for a certificate or license for any of the following:

21 (a) Unprofessional conduct, which includes, but is not limited to, the
22 following:

23 (f) Conviction of a felony or of any offense substantially related to the
24 qualifications, functions, and duties of a registered nurse, in which event the record
25 of the conviction shall be conclusive evidence thereof.

26 11. Section 2762 of the Code states:

27 In addition to other acts constituting unprofessional conduct within the
28 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a
29 person licensed under this chapter to do any of the following:

30 (a) Obtain or possess in violation of law, or prescribe, or except as directed
31 by a licensed physician and surgeon, dentist, or podiatrist, administer to himself or
32 herself, or furnish or administer to another, any controlled substance as defined in
33 Division 10 (commencing with Section 11000) of the Health and Safety Code or
34 any dangerous drug or dangerous device as defined in Section 4022.

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(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

12. Business and Professions Code section 4060 states:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

13. Health and Safety Code section 11170 states that no person shall prescribe, administer, or furnish a controlled substance for himself.

REGULATORY PROVISIONS

14. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

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1 15. California Code of Regulations, title 16, section 1445(b), states:

2 When considering the suspension or revocation of a license on the grounds
3 that a registered nurse has been convicted of a crime, the board, in evaluating the
4 rehabilitation of such person and his/her eligibility for a license will consider the
5 following criteria:

6 (1) Nature and severity of the act(s) or offense(s).

7 (2) Total criminal record.

8 (3) The time that has elapsed since commission of the act(s) or offense(s).

9 (4) Whether the licensee has complied with any terms of parole, probation,
10 restitution or any other sanctions lawfully imposed against the licensee.

11 (5) If applicable, evidence of expungement proceedings pursuant to Section
12 1203.4 of the Penal Code.

13 (6) Evidence, if any, of rehabilitation submitted by the licensee.

14 COST RECOVERY

15 16. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
16 administrative law judge to direct a licentiate found to have committed a violation or violations of
17 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
18 enforcement of the case.

19 DRUGS

20 17. Hydrocodone is a Schedule II controlled substance as designated by Health and
21 Safety Code section 11055(b)(1)(I), and is a dangerous drug pursuant to Business and Professions
22 Code section 4022.

23 18. Lorazepam is a Schedule IV controlled substance as designated by Health and Safety
24 Code section 11057(d)(16), and is a dangerous drug pursuant to Business and Professions Code
25 section 4022.

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FIRST CAUSE FOR DISCIPLINE

(September 26, 2011 Conviction of Alcohol-Related Reckless Driving on December 3, 2010)

19. Respondent is subject to disciplinary action under Code sections 490 and 2761(f) of the Code in that Respondent was convicted of a crime substantially related to the qualifications, functions, and duties of a registered nurse. The circumstances are as follows:

a. On or about September 26, 2011, in a criminal proceeding entitled *People of the State of California v. Sandra Gail Curry*, in the San Bernardino Superior Court, Joshua Tree District, in Case No. FMB1100035, Respondent was convicted on her guilty plea of violating Vehicle Code section 23103(a) (alcohol-related reckless driving), a misdemeanor. As a result of a plea bargain, Counts 1 (violation of Health and Safety Code section 11350(a) - possession of a controlled substance, to wit: Lorazepam - a felony), Count 2 (violation of Health and Safety Code section 11377 - unauthorized possession of a controlled substance, to wit: Lorazepam - a felony), and Count 4 (violation of Business and Professions Code section 4060 (possession of a controlled substance without a prescription - a misdemeanor) were dismissed.

b. As a result of the above conviction, the Court placed Respondent was ordered to serve one day in the county jail, with one day credit for time served, and placed on probation for two years. Respondent was also ordered to violate no laws, pay various fines and fees, enroll in and complete a two-month "Wet Reckless" course, not drive a motor vehicle unless properly licensed, not drive a motor vehicle with a measurable amount of alcohol in her system, and to submit person, residence and property to search and seizure.

c. The circumstances that led to Respondent's conviction are that on December 3, 2010, at approximately 0827 hours, California Highway Patrol Officers, while driving eastbound on SR-62 in the unincorporated area of Morongo Valley in the County of San Bernardino, observed Respondent's vehicle traveling at a high rate of speed westbound in the #1 lane in the vicinity of Valley View Road. Officers activated their Doppler radar, obtained a target speed of 80mph, and activated their emergency lights. Respondent pulled to the right shoulder and stopped her vehicle. When officers approached Respondent's vehicle on the right shoulder and asked her for her driver's license, registration and proof of insurance, Respondent made a statement officers

1 were unable to understand because of her slow, mumbled, and slurred speech. Respondent
2 handed officers her driver's license and began searching for her registration and proof of
3 insurance in the glove compartment. Officers observed Respondent's movements were slow and
4 over-exaggerated, and observed her to fumble through the paperwork in her glove compartment.
5 Officers instructed Respondent to exit her vehicle so that they could perform field sobriety tests.
6 Respondent was directed to walk to the flat, open desert area adjacent to the shoulder where she
7 was asked a series of pre-field sobriety test questions. Respondent informed officers she had
8 taken Celebrex and Prilosec for a bad knee and claimed to take no other medication. Officers
9 observed Respondent's eyes to be red and watery, her pupils dilated in the daylight lighting
10 conditions, and her eyelids droopy. Respondent failed the field sobriety tests and was arrested for
11 driving under the influence of alcohol and/or drugs.

12 d. Pursuant to the arrest, officers checked Respondent's purse and located prescription
13 bottles containing Ibuprofen and Tramadol that were prescribed to Respondent. Officers located
14 an additional bottle containing 23 tablets of Trazodone, a CNS depressant that was prescribed to
15 "L.C." Officers also located a small, white, unlabeled bottle containing additional controlled
16 substances. The tablets located in the unlabeled bottle were later identified as Lorazepam (6
17 tablets), Clonidine (1 tablet), Methocarbamol (18.5 tablets), and Hydrocodone (9.5 tablets).
18 Respondent was transported to the Morongo Basin CHP office where officers conducted an
19 examination and determined Respondent was under the influence of CNS Depressants.
20 Respondent provided a blood sample prior to being booked at the county jail for possession of a
21 controlled substance and for driving under the influence of a controlled substance. The blood
22 sample came back positive for Benzodiazepines, Tramadol, Desmethyldramadol, and Trazodone.

23 SECOND CAUSE FOR DISCIPLINE

24 (Unprofessional Conduct – Obtain or Possess Controlled Substances)

25 20. Respondent is subject to disciplinary action under Code section 2761, subdivision (a),
26 on the grounds of unprofessional conduct as defined by Code section 2762, subdivision (a), in
27 that on or about December 3, 2010, she possessed controlled substances not prescribed to her, as
28 set forth in paragraph 19, above, which is incorporated here by reference.

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct-Use of Controlled Substances in a Manner Dangerous**
3 **or Injurious to Self or Others)**

4 21. Respondent is subject to disciplinary action under Code section 2761, subdivision (a)
5 on the grounds of unprofessional conduct as defined by Code section 2762, subdivision (b); in
6 that on December 3, 2010, she used controlled substances to an extent or in a manner that was
7 dangerous to herself and the public, as set forth in paragraph 19, above, which is incorporated
8 here by reference.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct – Conviction of a Drug Related Crime)**

11 22. Respondent is subject to disciplinary action under Code section 2761, subdivision (a),
12 on the grounds of unprofessional conduct as defined by Code section 2762, subdivision (c), in
13 that she was convicted of a criminal offense involving the consumption of controlled substances,
14 as set forth in paragraph 19, above, which is incorporated here by reference.

15 **PRAYER**

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
17 and that following the hearing, the Board of Registered Nursing issue a decision:

18 1. Revoking or suspending Registered Nurse License Number 220444, issued to Sandra
19 Gail Curry, aka Sandra Gail Curry-Winter, aka Sandra Gail Saxon;

20 2. Ordering Sandra Gail Curry, aka Sandra Gail Curry-Winter, aka Sandra Gail Saxon,
21 to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement
22 of this case, pursuant to Business and Professions Code section 125.3;

23 3. Taking such other and further action as deemed necessary and proper.

24 DATED: August 14, 2012

25 *for* LOUISE R. BAILEY, M.ED., RN
26 Executive Officer
27 Board of Registered Nursing
28 Department of Consumer Affairs
State of California
Complainant

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